

**1.35 SUPERINTENDENT**—The Contractor's representative who is responsible for and in charge of the work.

**1.36 SURETY**—The corporation, partnership or individual, other than the Contractor, executing a bond furnished by the Contractor and guaranteeing performance by the Contractor.

**1.37 TITLES (OR HEADINGS)**—The titles or headings of the articles and sections herein are intended for convenience of reference and shall not be considered as having any bearing on their interpretation.

**1.38 WORK**—The furnishing of all labor, materials, equipment, and other incidentals necessary or convenient for the successful completion of the project and the execution of all the duties and obligations imposed by the contract.

**1.39 WORKING DAY**—A calendar day, which is not a Saturday, Sunday or State holiday, on which weather and other conditions not under the control of the Contractor permit operations to proceed for the major part of the day with normal working force engaged in performing the controlling item or items of work which would be in progress at that time.

**1.40 WORKING DRAWINGS**—Stress sheets, shop drawings, erection plans, falsework plans, framework plans, cofferdam plans, bending diagrams for reinforcing steel, or any other supplementary plans or similar data which the contractor is required to submit to the Director for approval.

**1.41** —In order to avoid cumbersome and confusing repetition of expressions in these specifications, it is provided that whenever anything "is, or is to be done," "if, as, upon, or, when," or where "contemplated, required, determined, directed, specified, authorized, ordered, given, designated, indicated, considered necessary, deemed necessary, permitted, reserved, suspended, established, approval, approved, disapproved, acceptable, unacceptable, suitable, accepted, satisfactory, unsatisfactory, sufficient, insufficient, rejected, or condemned," it shall be understood as if the expression were followed by the words "by the Director," "to the Director," or "of the Director."

**1.42** —Unless otherwise indicated, whenever the word "Article" or "Section" is used reference is being made to an article or section in these specifications.

**1.43** —Reference to federal, state, and city and county laws, ordinances, rules and regulations, and standard specifications, include amendments effective as of the date of the call for sealed tenders.

## **ARTICLE II—PROPOSAL REQUIREMENTS AND CONDITIONS**

**2.1 CONTRACTOR'S LICENSE**—Attention is directed to the provisions of Chapter 444, H.R.S., regarding the licensing of contractors in the State.

Except for projects involving federal funds and except where a contractor's license is not required, a bidder must have the required contractor's license before he submits his proposal. In a project involving federal funds, a bidder need not have a contractor's license at the time of the submission of his proposal, but he must have the required license before the contract will be awarded to him in case he is the successful bidder.

**2.2 QUALIFICATION OF BIDDERS**—Prospective bidders must be capable of performing the work for which bids are called.

Pursuant to Section 103-25, H.R.S., each bidder shall file at the Programs and Contracts Office, Department of Transportation, Aliiaimoku Hale, 869 Punchbowl Street,

Honolulu, Hawaii 96813, a written notice of his intention to bid at least six (6) calendar days prior to the date designated for the opening of bids. If the notice is mailed, it shall be mailed in sufficient time to meet the deadline set above.

In accordance with said Section 103-25, the Director may require any prospective bidder to submit answers to questions contained in the "Standard Qualification Questionnaire for Prospective Bidders on Public Works Contracts" form furnished by the Department, properly executed and notarized, at least forty-eight (48) hours prior to the time advertised for the opening of bids. The Director may also require additional information as he deems necessary. All information so provided shall be kept confidential and the questionnaire and other written material shall be returned to the bidder after serving their purpose.

Whenever it appears to the State, from the questionnaire or otherwise, that the prospective bidder is not fully qualified and able to perform the work, the State shall, if after affording the prospective bidder an opportunity to be heard and if still of the opinion that the bidder is not fully qualified to perform the work, refuse to receive or consider the prospective bidder's proposal.

Failure to complete the qualification questionnaire is sufficient cause for the Department to reject a bid.

**2.3 CONTENTS OF PROPOSAL FORMS**—Upon request, the Department will furnish the prospective bidder with a proposal form which will state the location and description of the contemplated work, an estimate of the various quantities and items of work to be performed or materials to be furnished and a schedule of items for which bid prices are asked. The proposal form will also state the time within which the work must be completed, the amount of the proposal guaranty, and the date, time and place of the opening of proposals.

All papers bound with or attached to the proposal form are a part thereof and shall not be altered when the proposal is submitted.

The plans, specifications and other documents designated in the proposal form are also a part thereof, whether attached or not.

The prospective bidder must deposit with the Department the sum stated in the Notice to Bidders for each copy of the proposal form and each set of plans. Failure to return said documents in good condition within thirty (30) days after the opening of bids will result in forfeiture of the sum deposited.

**2.4 ISSUANCE OF CONTRACT DOCUMENTS**—The Department may refuse to issue contract documents to a prospective bidder for any of the following reasons:

The prospective bidder's:

- (1) Failure to pay, or satisfactorily settle, all bills due for labor and material on contracts in force at the time of the call for tenders.
- (2) Default in previous contracts.

**2.5 ESTIMATED QUANTITIES**—All quantities appearing in the contract are approximate and those indicated in the proposal schedule are prepared for the comparison of bids only. The State does not expressly or impliedly warrant that the actual amount of work will correspond therewith. Payment to the Contractor will be made only for the actual quantities of work performed and accepted or materials furnished in accordance with the contract, and no change will be made in the contract unit prices if overruns and underruns occur. The scheduled quantities of work to be done and materials to be furnished, however, may each be increased, decreased or omitted; provided that, when the State orders in writing an alteration pursuant to Section 4.2, and the total effect of such alteration, when combined with previous

alterations and agreed changes, increases or decreases the estimated quantity of a *major contract item* by more than 25 per cent, payment for such item will be in accordance with Section 4.2.

**2.6 EXAMINATION OF PLANS, SPECIFICATIONS AND SITE OF WORK**—The bidder shall carefully examine the site of the proposed work, the proposal, plans, specifications, special provisions, if any, and the contract and bond forms, before submitting his proposal. The submission of a proposal is a warranty that the bidder has made an examination and is fully aware of all conditions to be encountered in performing the work and of the requirements of the plans, specifications, special provisions, contract and bond.

The subsurface information or hydrographic surveys furnished for the convenience of the bidders are based on the interpretation by the State of investigations made at the specified locations only, and no assurance is given that these conditions are necessarily typical of other locations or that conditions have remained unchanged since the field data were obtained. No assurance is given that the presence or absence of water in subsurface explorations at the time of these explorations is representative of the conditions to be encountered at the time of construction. The bidder is solely responsible for all assumptions, deductions, or conclusions which he may make or derive from his examination of any furnished subsurface information or tests.

**2.7 PREPARATION OF PROPOSAL**—The bidder shall submit his proposal upon the forms furnished by the Department or a facsimile thereof. The bidder shall specify unit prices in words or figures, or both as required, for each pay item. He shall also show the products of the respective unit prices and quantities written in figures in the column provided for that purpose and the total amount of the proposal obtained by adding the amounts of the several items. All the words and figures shall be in ink or typed. In case of a discrepancy between the prices written in words and those written in figures, when both are required, the prices written in words shall govern.

When an item in the proposal contains a choice to be made by the bidder, the bidder shall indicate his choice in accordance with the specifications for that particular item; thereafter no further choice will be permitted.

The bidder's proposal must be signed with ink by the person or persons legally authorized to submit a proposal on behalf of the bidder.

When a proposal is signed by an agent, proof of the authority to sign the proposal for the bidder must be on file with the State prior to the opening of proposals or shall be submitted with the proposal; otherwise, the proposal will be rejected as irregular and unauthorized.

**2.8 IRREGULAR PROPOSALS**—Proposals will be considered irregular and may be rejected for any of the following reasons:

- (1) If the proposal is in a form other than that furnished by the Department; or if the form is altered or any part thereof is detached.
- (2) If there are unauthorized additions, conditional or alternate proposals, or irregularities of any kind which may tend to make the proposal incomplete, indefinite, or ambiguous as to its meaning.
- (3) If the bidder adds any provisions reserving the right to accept or reject an award, or to enter into a contract pursuant to an award.

This does not exclude a proposal limiting the maximum gross amount of awards acceptable to any one bidder at any one bid letting, provided that any selection of awards will be made by the State.

- (4) If the proposal does not contain a bid price for each pay item listed.
- (5) Unbalanced proposals in which the prices for some items are out of proportion to the prices for other items.

**2.9 PROPOSAL GUARANTY**—All bids of \$15,000 or more shall be accompanied by a deposit of legal tender or by a certificate of deposit, cashier's check or certified check on a bank that is insured by the Federal Deposit Insurance Corporation, in a sum not less than five percent of the amount bid, payable at sight to the Department of Transportation, State of Hawaii; provided that when the amount bid exceeds \$50,000, the legal tender, certificate of deposit, cashier's check or certified check shall be in a sum not less than \$2,500 plus two per cent of the amount in excess of \$50,000. A certificate of deposit, cashier's check or certified check may be utilized only to a maximum of \$40,000.

A bid requiring a proposal guaranty in excess of \$40,000 shall only be in the form of legal tender or a surety bond conforming to the requirement of Section 103-31, H.R.S., as amended.

**2.10 DELIVERY OF PROPOSAL**—A bidder shall submit his proposal in a sealed envelope bearing on the outside the identity of the project and his name and address. A proposal not received at the place specified in the Notice to Bidders prior to the time set for the opening of proposals will be rejected and returned unopened.

**2.11 WITHDRAWAL OR REVISION OF PROPOSALS**—A bidder may withdraw or revise a proposal after it has been deposited with the State, provided the request for such withdrawal or revision is received by the State, in writing, before the time set for the opening of proposals. If the request is for a revision, the revised proposal must be received by the officer calling for tenders prior to the time set for the opening of proposals or it shall be treated as a request for withdrawal.

**2.12 PUBLIC OPENING OF PROPOSALS**—Proposals will be opened and read publicly at the time and place(s) indicated in the Notice to Bidders. Bidders, their authorized agents, and other interested parties are invited to be present.

**2.13 DISQUALIFICATION OF BIDDERS**—Any of the following reasons may be considered as being sufficient grounds for the disqualification of a bidder and the rejection of his proposal or proposals.

- (1) More than one proposal for the same work from an individual, firm, or corporation under the same or different name.
- (2) Evidence of collusion among bidders. Participants in such collusion will receive no recognition as bidders for any future work of the Department until such participant shall have been reinstated as a qualified bidder.
- (3) Lack of proposal guaranty.
- (4) Unsigned proposal.

**2.14 DECLARATION OF STATE EMPLOYMENT**—Pursuant to Section 84-15, H.R.S., the successful bidder is required to execute and submit the "Declaration of State Employment" before the contract will be awarded to him.

Said Section 84-15 specifies, among other things, that "A State agency shall not enter into contract with any person or business which is represented or assisted personally in the matter by a person who has been an employee of the agency within the preceding two years and who participated while in state office or employment in the matter with which the contract is directly concerned."